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Attorney Docket # 0220-02CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of :)	
)	
Shimon Silberfenig)	Examiner: Ubiles, Marie C.
)	
Serial No.: 09/874,614)	Group Art Unit: 2642
)	
Filed: June 4, 2001)	Mansfield, TX
)	
Title: COMBINATION CELLULAR TELEPHO...)	October 6, 2005
)	

APPEAL BRIEF TRANSMITTAL LETTER

Commissioner of Patents
Mail Stop Appeals
Board of Appeals and Interferences
P.O. Box 1450
Alexandria, VA 22313

Commissioner:

Enclosed for filing in the above-identified application is Appellant's Appeal Brief, in triplicate, and check # 4971 in the amount of \$250 for the required fee for filing this Appeal Brief by a small entity

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Sincerely,

Eric Karich, Patent Reg. No. 41,503

CUSTOMER NUMBER 21704

Ph: 800-949-0255

Express Mail Number EV 644684543 US. Mailed October 6, 2005.



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APPELLANT'S APPEAL BRIEF

Commissioner of Patents
Board of Appeals and Interferences
P.O. Box 1450
Alexandria, VA 22313

Commissioner:

This is an appeal to the Board of Patent Appeals and Interferences from the Final Rejection of Examiner, dated June 7, 2005, rejecting claims 5-6 in this application.

1. **REAL PARTY IN INTEREST**

The real party in interest is the primary inventor, Shimon Silberfenig.

2. **RELATED APPEALS AND INTERFERENCES**

There are no related appeals or interferences.

3. **STATUS OF CLAIMS**

Claims 1-6 were filed. Claims 1-4 were cancelled, and claims 5-6 currently stand rejected and are hereby appealed. A copy of the claims 5-6 is attached hereto as **Exhibit "A."**

4. **STATUS OF AMENDMENTS**

Claims 5 and 6 have not been amended.

5. **SUMMARY OF THE INVENTION**

The present invention is a cellular telephone ("cell phone") having a built-in answering machine, and electronics that enable the cell phone to receive an incoming call, record the call, and then email the message to a pre-defined email address (presumably the email address of the user). This enables the user to receive email messages of any calls received by his or her cell phone.

6. **ISSUES PRESENTED FOR REVIEW**

- (1) Whether claim 5 is anticipated by Detlef, U.S. 6,351,523; and
- (2) whether claims 6 is obvious under 35 U.S.C. 103(a) in light of the combination of Detlef, U.S. 6,351,523 and Finnegan, U.S. 5,687,220.

7. **GROUPING OF CLAIMS**

The rejected claims do not stand or fall together. Claim 5 constitutes the first group, and claim 6 constitutes the second group. Claims 5 and 6 are separately patentable, as discussed in detail below.

8. **ARGUMENT**

Limitations of Claim 5 Are Not Disclosed in Detlef Or Other Prior Art

The first issue is whether the prior art, specifically Detlef, teaches all of the limitations of claim 5. Applicant respectfully submits that Detlef does not teach some of the critical limitations of claim 5, and so claim 5 should not be found anticipated by Detlef, but should be allowed.

The present invention is basically a cellular telephone ("cell phone") having a built-in answering machine, and electronics that enable the cell phone to receive an incoming call, record the call, and then email the message to a pre-defined email address (presumably the email address of the user). This enables the user to receive email messages of any calls received by his or her cell phone.

In the pertinent parts, Claim 5 includes the following limitations:

5. A method for recording a voice message and transmitting the voice message to an email address of a recipient, the method comprising the steps of:

providing a combination cellular telephone, sound storage device and email communication device, the combination comprising: . . .

- a **voicemail greeting memory** operably connected to the controller;
- and

. . .

recording a voicemail greeting on the voicemail greeting memory;

receiving a call on the combination and automatically answering the call and

playing the voicemail greeting;

recording a voice message onto the voice recorder memory through the transmitter/receiver upon completion of playing the voicemail greeting; and

transmitting the voice message and the email address through the transmitter/receiver, the email address being associated with the voice message such that the voice message can be delivered as directed by the email address.

Detlef teaches a cell-phone-like device that includes a “stand alone voice memo function” (Col. 4, line 1) -- a recording device for enabling the user to record memos. The Detlef device also includes an ability to check email, another common feature on cellular telephones. The invention disclosed in Detlef teaches the ability to receive an email, record a memo in response, and then reply to the email and attach a .wav file of the user’s

recorded comments. This enables effective email correspondence without requiring a full sized keyboard, and without requiring the user to type a response on a tiny keypad.

Importantly, Detlef DOES NOT teach anything having to do with an answering machine function. Detlef does not teach a cell phone having a “voicemail greeting memory” (or the step of recording a greeting in this memory). It is this voicemail greeting memory (and recording) that greets the incoming call and requests that the caller leave a message (after the beep . . .). This is not taught in Detlef, nor is any such system taught or implied. Furthermore, remote call answering services that are common with cell phones are not equivalent because they are located remotely, not within the cell phone.

Detlef also does not teach the present method of recording the caller on the voice recorder memory, “through the transmitter/receiver.” The recording is made through the transmitter/receiver, not through the local microphone. This is in stark contrast to Detlef, which teaches recording a message from a cell phone holder through the microphone, not recording a caller.

Given the important distinctions between the Detlef device and the present claimed invention, described in the limitations of claim 5, Applicant respectfully submits that the present invention is novel and should be allowed.

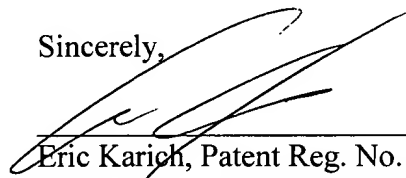
Finnegan Does Not Teach The Limitations of Claims 5 or 6

Finnegan also fails to teach the limitations of claims 5 or 6. Finnegan teaches a method for controlling transmission of voice messages on a standard voice message system. The method and system do not teach the use of cell phones, and they do not teach inclusion of any of the above-described limitations, such as a voicemail greeting memory, in a cell phone.

While Finnegan does teach the method of “converting voice messages into text data that is suitable for delivery as electronic mail to a selected electronic mailbox,” this does not teach or suggest the use of such a system with a cell phone or similar portable device.

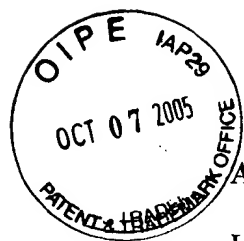
Since the prior art does not teach or suggest some of the critical limitations of claims 5 and 6, and for the other reasons and arguments described above, Applicant respectfully requests that claims 5 and 6 be allowed.

Sincerely,



Eric Karich, Patent Reg. No. 41,503
CUSTOMER NUMBER 21704
Ph: 800-949-0255

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APPENDIX

LIST OF CLAIMS

Claims 1-4: Cancelled

5. A method for recording a voice message and transmitting the voice message to an email address of a recipient, the method comprising the steps of:

providing a combination cellular telephone, sound storage device and email communication device, the combination comprising:

- a controller operably connected to a power source, a microphone, a speaker, and a transmitter/receiver for enabling cellular telephone communications;
- an email address memory operably connected to the controller;
- a voicemail greeting memory operably connected to the controller;
- and
- a voice recorder memory operably connected to the controller;

storing an email address in the email address memory;

recording a voicemail greeting on the voicemail greeting memory;

receiving a call on the combination and automatically answering the call and playing the voicemail greeting;

recording a voice message onto the voice recorder memory through the transmitter/receiver upon completion of playing the voicemail greeting; and

transmitting the voice message and the email address through the transmitter/receiver, the email address being associated with the voice message such that the voice message can be delivered as directed by the email address.

6. The method of claim 5 further comprising the steps of:

receiving the voice message and the email address at a message center;

converting the voice message into a text message;

composing an email including the text message and addressed to the email address; and

transmitting the email such that the text message is delivered to the email address.

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